

Janice Oliver	:	CIVIL ACTION - COMPLAINT
3600 Red Lion Road, Apt. 58C	:	
Philadelphia, PA 19114	:	
Plaintiff,	:	
vs.	:	
	:	
The United States Postal Service	:	
3190 S. 70th Street, Philadelphia, PA 19153	:	
and	:	
United States of America	:	
950 Pennsylvania Ave, NW, Washington, DC 20530	:	
and	:	DOCKET NO.: 22-527
Southeastern Pennsylvania Transportation Authority	:	
a/k/a SEPTA	:	
1234 Market Street, 5th Floor, Philadelphia, PA 19107	:	
	:	
Defendants	:	

COMES NOW, Plaintiff, **Janice Oliver**, by and through counsel, Louis B. Himmelstein & Associates, P.C., and claims damages of the Defendant upon a cause of action whereof the following is a statement:

1. Plaintiff, **Janice Oliver**, is an adult individual, citizen and resident of , Commonwealth of Pennsylvania, residing at 3600 Red Lion Road, Apt 58C, Philadelphia PA 19114.
2. Defendant, **The United States Postal Service**, (hereinafter also referred to as Defendant(s)) is an independent establishment of the executive branch of the Government of the United States, with the power to be sued in its official name pursuant to 28 USC § 1346 and 28 USC § 2671-2680.
3. Defendant, **United States of America** (hereinafter also referred to as Defendant(s) is the Government of the United States, with the power to be sued in its official name pursuant to 28 USC § 1346 and 28 USC § 2671-2680.

4. Defendant, **Southeastern Pennsylvania Transportation Authority a/k/a SEPTA**, (hereinbefore and hereinafter also referred to as Defendant(s)), is a Regional Transportation Authority empowered to act as a common carrier in and about the public highways of the City of Philadelphia, Commonwealth of Pennsylvania, with its registered office and principal place of business at the captioned address with the power to be sued in its official name pursuant to Pa. C.S. 8522.

JURISDICTION AND VENUE

5. On February 20, 2020, an official claim was brought against the Postal Service by way of “Standard Form 95.” It has been more than six (6) months since the claim was submitted, with no formal denial having been issued, and, as such, pursuant to 28 USC §2675(a), this shall be treated as a final denial of Plaintiff’s claim.

6. This Court has jurisdiction based upon 28 USC § 1346 and 28 USC § 2671-2680 allowing for original jurisdiction of the United States District Courts over actions brought against the **The United States Postal Service** and the **United States of America**.

7. Venue is properly laid, pursuant to 28 U.S.C. §1391(a), as the events giving rise to this claim occurred within the Eastern District of Pennsylvania.

FACTS

7. On or about March 14th, 2018 Plaintiff, **Janice Oliver**, was a passenger in a SEPTA bus being operated at and/or near the intersection of 3rd Street and Cambridge Street, being public highways in the City of Philadelphia, Commonwealth of Pennsylvania, when the bus was caused to slam on the brakes due to the negligence of the defendants.

8. At the aforesaid time and place, the operator of the **United States Postal Service** vehicle walked out of a mail truck owned and/or operated by **United States Postal Service** and/or **United States of America** without looking and proceeded into the lane occupied by Plaintiff and **SEPTA**.

9. As a sole and direct result of the action of the occupant/operator and employee of **United**

States Postal Service and/or **United States of America**, and the negligence of the Defendant, **SEPTA**, the SEPTA operator was forced to stop forcibly and/or without notice to passengers such as Plaintiff.

10. As a sole and direct result of said incident, caused by the careless, reckless and negligent conduct of Defendants, Plaintiff, **Janice Oliver**, was thrown violently about within the bus, causing Plaintiff, **Janice Oliver**, to sustain serious, painful and permanent orthopedic and neurological injuries and damages.

11. The accident resulted solely from the carelessness, recklessness and negligence of the Defendants, and was due in no manner whatsoever to any act or failure to act on the part of Plaintiff, **Janice Oliver**.

12. At all times herein material, Defendant was either acting individually and/or by and through their/its/her/her duly authorized agents, servants, workmen, bailees and/or employees all of whom were acting in the course and scope of their/her/its employment and in the furtherance of the Defendant's businesses and affairs.

13. Plaintiff avers that the carelessness, negligence and recklessness of the defendants, individually, jointly and/or severally, consisted of the following:

- a) failing to look out for oncoming traffic while exiting/preparing to exit a vehicle, and/or driving to fast and without proper regard for individuals exiting a vehicle into the road way;
- b) failing to use caution while in the roadway so as to cause an accident;
- (c) Operating said vehicle at a high, excessive and dangerous rate of speed under the circumstances; thereby causing plaintiff to be thrown violently about;
- (d) Operating said vehicle in a reckless manner and causing the accident;
- (e) Operating said vehicle without keeping a proper lookout for road and traffic conditions;
- (f) Disregarding the position of the plaintiff on the roadway;
- (g) Failing to exercise due care under the circumstances;
- (h) Being otherwise careless and negligent;

- (i) Violating the assured clear distance ahead rule;
- (j) Failing to use the required degree of skill and care in the operation of the vehicle;
- (k) Failing to acknowledge the Plaintiff while driving;
- (l) Failing to properly maintain and/or repair and/or inspect said vehicle;
- (m) Operating said vehicle without due regard for the rights, safety and position of the plaintiff herein at the point aforesaid;
- (n) Otherwise violating the ordinances of the City of Philadelphia and the statutes of the Commonwealth of Pennsylvania, pertaining to the operation of motor vehicles upon the public highways and in intersections;
- (o) Failing to slow down defendant's vehicle prior in an unsafe manner;
- (p) Violating the mandate of the rules of the road;
- (q) Failing to apply the brakes in a timely fashion;
- (r) Failing to have said vehicle under proper and/or adequate control;
- (s) Failing to avoid harming the plaintiff;
- (t) Failing to see the plaintiff on the roadway;
- (u) Failing to use caution when operating a vehicle;
- (v) Being otherwise negligent as revealed in discovery;
- (w) Operating a vehicle without a clear view of the outside;
- (x) Operating a vehicle without a clear view of the traffic;
- (y) Failing to stop in a safe manner;
- (z) Using a cell phone or other electronic device thereby driving distracted;
- (A) Allowing a dangerous driver to drive the vehicle.

14. As a sole result of the aforementioned accident, caused by the negligence, carelessness and recklessness of the Defendants individually, jointly and/or severally, Plaintiff, **Janice Oliver**, has sustained serious, painful and permanent injuries, internally and externally, to her head, neck, back, shoulders, chest, arms, hands, wrists, fingers, hips, legs, knees and/or feet, and the bones, cartilages,

ligaments, muscles, nerves, blood vessels and/or soft tissues attached thereto were fractured, herniated, wrenched, bruised, and/or otherwise injured as now known or as may be discovered in the future, including but not limited to the specific injuries diagnosed because of this incident including cervical herniations, head injury; she suffered serious orthopedic and neurological injuries, any and/or all of which are and/or may be aggravations of pre-existing conditions, the full extent of which have not as yet been ascertained; she sustained a severe shock to her nerves and nervous system; she has suffered excruciating and agonizing aches, pains and mental anguish, some or all of which are or may be permanent in nature.

15. Further, by reason of the injuries sustained by Plaintiff, **Janice Oliver**, she has suffered and will continue to suffer great mental anguish, physical pain, and she has been hindered and prevented from performing and engaging in her usual labor, employment, duties, occupations, household chores, and/or pleasures thereby resulting in a loss, depreciation and diminution of her earnings, earning capacity and/or loss of enjoyment of life, all to her great and continuing detriment and loss.

16. Furthermore, Plaintiff, **Janice Oliver**, has required various hospital, physician and/or medical treatment care, and consequently she has incurred hospital, physicians and/or medical bills and expenses in and about an effort to cure herself of the aforesaid injuries, and she shall be obliged to continue to obtain hospital and medical treatment and to make such expenditures for an indefinite time in the future, all to her great and continuing detriment and loss.

17. As a direct and sole result of the accident, Plaintiff, **Janice Oliver**, has or may hereinafter incur other financial expenses and/or losses, and also loss of services and earnings and/or other items of damage all to her great and continuing detriment and loss, and a claim for which is hereby also made.

18. As a further result of the instant occurrence, Plaintiff, **Janice Oliver**, has suffered an injury which is, may and shall be in full or in part, a serious impairment of and/or a permanent loss of a bodily function, a permanent serious disfigurement and/or a permanent dismemberment, which is or shall

be permanent, irreparable and severe.

WHEREFORE, Plaintiff, **Janice Oliver**, claims damages of the defendants, Individually, jointly and/or severally for an amount in excess of Seventy-Five Thousand Dollars (\$75,000.00).

COUNT ONE
PLAINTIFF vs. The United States Postal Service

19. Plaintiff hereby incorporates by reference each and every allegation contained in the preceding paragraphs as fully as though set forth herein at length.

20. As a direct and sole result of the aforesaid careless, reckless and negligence of the Defendant, Plaintiff, **Janice Oliver**, sustained serious, painful and permanent injuries.

WHEREFORE, Plaintiff, **Janice Oliver**, claims damages of the defendants, Individually, jointly and/or severally for an amount in excess of Seventy-Five Thousand Dollars (\$75,000.00).

COUNT TWO
PLAINTIFF vs. United States of America

21. Plaintiff hereby incorporates by reference each and every allegation contained in the preceding paragraphs as fully as though set forth herein at length.

22. As a direct and sole result of the aforesaid careless, reckless and negligence of the Defendant, Plaintiff, **Janice Oliver**, sustained serious, painful and permanent injuries.

WHEREFORE, Plaintiff, **Janice Oliver**, claims damages of the defendants, Individually, jointly and/or severally for an amount in excess of Seventy-Five Thousand Dollars (\$75,000.00).

COUNT THREE

PLAINTIFF vs. Southeastern Pennsylvania Transportation Authority a/k/a SEPTA

23. Plaintiff hereby incorporates by reference each and every allegation contained in the preceding paragraphs as fully as though set forth herein at length.

24. As a direct and sole result of the aforesaid careless, reckless and negligence of the Defendant, Plaintiff, **Janice Oliver**, sustained serious, painful and permanent injuries.

WHEREFORE, Plaintiff, **Janice Oliver**, claims damages of the defendants, Individually, jointly and/or severally for an amount in excess of Seventy-Five Thousand Dollars (\$75,000.00).

Respectfully submitted,

LOUIS B. HIMMELSTEIN & ASSOCIATES, P.C.

/s Louis B. Himmelstein

Louis B. Himmelstein

ATTORNEY FOR PLAINTIFF

Identification Number: 41140

1420 Walnut Street, Suite 1000

Philadelphia, PA 19102

Telephone: (215) 790-9996

Fax: (215) 790-9055

Email:

lawyers@himmelsteinlawoffices.com

/s Timothy J. Alles

Timothy J. Alles

ATTORNEY FOR PLAINTIFF

Identification Number: 311442

1420 Walnut Street, Suite 1000

Philadelphia, PA 19102

Telephone: (215) 790-9996

Direct: (267) 551-3210

Fax: (215) 790-9055

Email: talles@himmelsteinlawoffices.com

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